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FISCAL IMPACT STATEMENT

LS 7385

BILL NUMBER: HB 1399

NOTE PREPARED: Jan 4, 2005

BILL AMENDED:

SUBJECT: Retainage on State Public Works Projects.

FIRST AUTHOR: Rep. Yount

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that use and occupancy of a public work by a state governmental body creates a presumption that the public works project is substantially complete. It provides for a public works mediator to hear grievances of contractors and subcontractors relating to the payment of retainage on state public works projects.

The bill provides that the State Examiner or the State Examiner's designee is the public works mediator. The bill also provides a contractor or subcontractor a cause of action against a person that fails to pay retainage or to take action to secure the payment of retainage if the retainage is not paid within five business days of the public works mediator's decision that the retainage should be paid. It provides that a contractor or subcontractor that prevails in such a cause of action can recover three times the amount of retainage in controversy, attorney's fees, and certain costs.

Effective Date: July 1, 2005.

Explanation of State Expenditures: The bill could increase state cost by an unknown amount. It would depend on how often the state does not return the retainage in a timely manner as set by the bill.

The State Board of Accounts would have some additional expense when they perform the public works mediator function. The increase in expense would probably be minor.

If the courts finds that the retainage in question is lawfully due, the plaintiff is entitled to:

1. An Amount equal to 3 times the retainage due.

2. Cost of the action.
3. Reasonable attorney's fees.
4. Actual travel expenses incurred.
5. Compensation for loss of time used to file papers and travel.
6. All other reasonable costs of collection.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State projects.

Local Agencies Affected:

Information Sources:

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